

REMARKS

The Examiner has maintained the Office Action dated January 29, 2004 as Final, but has entered the amendment filed April 21, 2004 because it overcomes rejections under 35 USC § 112.

In this amendment Applicant has further amended the claims to specify that the gas permeable membrane permeates gas at a pressure required to maintain density of CO<sub>2</sub> gas at a level required for growth of a microorganism. Support for this amendment is found in Applicant's specification at page 3, line 29 through page 4, line 9.

In this amendment, Applicant has claims methods which now include a unique CO<sub>2</sub> gas permeable membrane which maintains a level of CO<sub>2</sub> gas in the medium portion. This concept is totally lacking from '060 which has only a sensor (2), which cannot function as Applicant's claimed membrane. The sensor of '060 is simply not another fluid which can absorb carbon dioxide. The only use of carbon dioxide by the sensor is that used in its chemical reactions. On the other hand, Applicant now claims a membrane which controls CO<sub>2</sub> within the medium. Similarly, the sensor in '769 which is a patent issued to the same patentees and to the same company as '060 is the same sensor.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early


**S/N: 09/897,105**

**4/28/2004**

**DOCKET NO.: SUD-109-DIV**

action in accordance thereof is requested. In the event there is any reason why the application cannot be allowed in this current condition, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems by Interview or Examiner's Amendment.

Respectfully submitted,

  
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Date: April 28, 2004

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RRS/bam